

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RUSSELL HESTER,

Plaintiff,

vs.

STOUT MANAGEMENT, D/B/A
CORONADO BAY CLUB, *et al.*

Defendants.

Case No. 2:20-cv-02105-APG-VCF

**REPORT AND RECOMMENDATION FOR
DISMISSAL**

The Court previously granted pro se plaintiff Russell Hester's application to proceed *in forma pauperis*, consolidated this case with another of Hester's cases, denied defendant's motion to dismiss as moot since the Court had not yet screened the complaint, and dismissed Hester's complaint without prejudice with leave to amend. (ECF Nos. 12 and 14). The Court found that it did not have jurisdiction to review the result of Hester's underlying state court eviction action. (See ECF No. 14 at 3, citing to *Rooker v. Fid. Tr. Co.*, 263 U.S. 413, 414, 44 S. Ct. 149, 149 (1923); *D.C. Court of Appeals v. Feldman*, 460 U.S. 462, 103 S. Ct. 1303 (1983) (Federal courts do not have jurisdiction to sit in direct review of state court decisions or procedures.) The Court gave plaintiff until January 18, 2021 to file an amended complaint and warned that, "[f]ailure to timely file an amended complaint that addresses the deficiencies noted in this Order may result in a recommendation that the dismissed claims be dismissed with prejudice. (ECF No. 14 at 4). The Court also warned the plaintiff that, "[p]ursuant to LR IA 3-1, the plaintiff must immediately file written notification with the court of any change of address...Failure to comply with this rule may result in dismissal of the action." (*Id.*)

Plaintiff has not filed an amended complaint or an objection to the Court's order. Plaintiff has also failed to maintain a current address with the Court as required. The clerk's notices have been

1 returned as undeliverable and the clerk has notified plaintiff electronically. (ECF Nos. 16 and 17). For
2 the reasons discussed in the Court's Order (ECF No. 14), plaintiff's case should be dismissed.

3 ACCORDINGLY,

4 IT IS RECOMMENDED that this action be DISMISSED and Judgment entered.

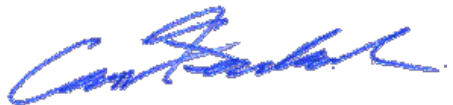
5 **NOTICE**

6 Pursuant to Local Rules IB 3-1 and IB 3-2, a party may object to orders and reports and
7 recommendations issued by the magistrate judge. Objections must be in writing and filed with the Clerk
8 of the Court within fourteen days. LR IB 3-1, 3-2. The Supreme Court has held that the courts of appeal
9 may determine that an appeal has been waived due to the failure to file objections within the specified
10 time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file
11 objections within the specified time and (2) failure to properly address and brief the objectionable issues
12 waives the right to appeal the District Court's order and/or appeal factual issues from the order of the
13 District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch.*
14 *Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).
15

16 Pursuant to LR IA 3-1, the plaintiff must immediately file written notification with the court of
17 any change of address. The notification must include proof of service upon each opposing party's
18 attorney, or upon the opposing party if the party is unrepresented by counsel. Failure to comply with this
19 rule may result in dismissal of the action.

20 IT IS SO RECOMMENDED.

21 DATED this 2nd day of February 2021.

22 

23 CAM FERENBACH
24 UNITED STATES MAGISTRATE JUDGE
25